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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 DONALD E. MITCHELL, JR.,
15 Plaintiff,
16 vs.
17 STATE OF NEVADA, ex rel,
18 Defendants.
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Case No. 2:17-cv-00986-JAD-BNW

**DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO FILE
SUMMARY JUDGMENT MOTION
(Second Request)**

20 Defendants Devona Jimenez (Troutman) and Patrick Moreda, by and through
21 counsel, Aaron D. Ford, Nevada Attorney General, and Jared M. Frost, Senior Deputy
22 Attorney General, hereby move for an additional thirty (30) day extension of time to file a
23 summary judgment motion. Defendants' motion is made and based on Rule 6 of the Federal
24 Rules of Civil Procedure, the following memorandum of points and authorities, the attached
25 Declaration of Counsel, the pleadings and papers on file, and any other evidence the Court
26 deems appropriate to consider.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

This is an inmate civil rights lawsuit. Plaintiff filed his initial Complaint on April 5, 2017. ECF No. 1-1. Pursuant to the Court's Screening Order, Plaintiff was allowed to proceed on one claim of retaliation against Defendant Jimenez and one claim of retaliation and due process violations against Defendant Moreda. ECF No. 2 at 8.

On September 11, 2018, the Attorney General entered an Acceptance of Service for Devona Jimenez and Patrick Moreda. ECF No. 9.

On October 22, 2018, Defendants filed an Answer. ECF No. 10.

On January 15, 2019, the Court issued its Scheduling Order. ECF No. 11. Pursuant to the Scheduling Order, discovery in this action must be completed by April 17, 2019, and summary judgment motions must be filed by June 3, 2019. *Id.*

On April 14, 2019, Plaintiff filed a Motion to Compel Discovery. ECF No. 14.

On April 17, 2019, the discovery period expired. ECF No. 11.

On April 26, 2019, Defendants filed their Opposition to Plaintiff's Motion to Compel Discovery. ECF No. 15.

On May 31, 2019, Defendants filed a motion to extend the time to file a summary judgment motion for thirty (30) days. ECF No. 19.

This second motion for an extension of time to file a summary judgment motion follows.

II. APPLICABLE LAW

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), the Court may extend the time to perform an act within a specified time for good cause shown.

III. ARGUMENT

Defendants submit that good cause exists for an additional thirty (30) day extension of time to file a summary judgment motion. Since Defendants requested an extension of time on May 31, 2019, the undersigned has made some progress in drafting the summary judgment motion, including the introduction and background section and the statement of

undisputed facts. *See* Exhibit 1 (Declaration of Counsel). However, the undersigned has been unable to complete the motion due to his responsibilities to meet deadlines in other cases and his administrative responsibilities. *See id.* No further requests for extensions of the dispositive motion deadline are anticipated, and the undersigned will make every effort to ensure Defendants' motion is completed by, or prior to, the new deadline.

DATED this 2nd day of July, 2019.

AARON D. FORD
Attorney General

By: /s/ Jared M. Frost
JARED M. FROST (Bar No. 11132)
Senior Deputy Attorney General

Attorneys for Defendants
Devona Jimenez and Patrick Moreda

ORDER

IT IS SO ORDERED. Defendants shall have until August 2, 2019, to file a Motion for Summary Judgment.

Dated this 10th day of July, 2019.


UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on July 2, 2019, I electronically filed the foregoing **DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE SUMMARY JUDGMENT MOTION (Second Request)** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Donald E. Mitchell, #94796
High Desert State Prison
P.O. Box 650
Indian Springs, Nevada 89070
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General

EXHIBIT 1

Declaration of Counsel

EXHIBIT 1

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Attorneys for Defendants
Devona Jimenez and Patrick Moreda

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD E. MITCHELL, JR.,

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vs.

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Defendants.

Case No. 2:17-cv-00986-JAD-BNW

DECLARATION OF COUNSEL

I, JARED M. FROST, hereby declare, based on personal knowledge and/or information and belief, that the following assertions are true:

1. I am a Senior Deputy Attorney General employed by the Nevada Attorney General in the Litigation Division, and I make this declaration in support of Defendants' motion for an extension of time in which to file a summary judgment motion in the above-captioned matter

2. Since Defendants requested an extension of time on May 31, 2019, the undersigned has made some progress in drafting the summary judgment motion, including a draft of the introduction and background section and the statement of undisputed facts.

1 However, I have been unable to complete the motion due to my responsibilities to meet
2 deadlines in other cases.

3 3. My responsibilities to meet deadlines during the past thirty (30) days include:
4 *Rexroad v. Nevin*, USDC Case No. 2:17-cv-01629 (answer to complaint filed 06/04/19); *Howard*
5 *v. Cox*, USDC Case No. 2:17-cv-01002 (notice of appearance filed 06/05/19); *Peck v. State of*
6 *Nevada*, USDC Case No. 2:18-cv-00237 (response to motion for injunction filed 06/07/19);
7 *Hernandez v. Aranas*, USDC Case No. 2:18-cv-00102 (response to motion for appointment of
8 counsel filed 06/07/19); *Peck v. State of Nevada*, USDC Case No. 2:18-cv-00237 (response to
9 motion for sanctions filed 06/11/19); *Linsey v. Dzurenda*, USDC Case No. 2:18-cv-00902
10 (motion for reconsideration filed 06/11/19); *Johnson v. Lewis*, USDC Case No. 2:17-cv-01668
11 (response to motion to dismiss filed 06/19/19); *Brown v. State of Nevada*, USDC Case No. 2:17-
12 cv-00832 (acceptance of service filed 06/20/19); *Reese v. Fulker*, USDC Case No. 2:17-cv-01627
13 (motion to extend discovery deadlines filed 06/20/19); *Farvela v. Barth*, USDC Case No. 2:16-
14 cv-00831 (settlement conference statement submitted 06/22/19); *Furtado v. State of Nevada*,
15 USDC Case No. 2:18-cv-00188 (stipulation to stay case for settlement negotiations filed
16 06/25/19); *Peck v. State of Nevada*, USDC Case No. 2:18-cv-00237 (28-page motion to dismiss
17 filed 06/28/19); *Farvela v. Barth*, USDC Case No. 2:16-cv-00831 (settlement conference
18 conducted on 06/28/19).

19 4. My administrative responsibilities have also impacted my ability to work on this
20 case in the past thirty (30) days. These responsibilities include review of attorney work
21 product, including court filings, drafted by other attorneys in the Litigation Division, the
22 supervision of a summer law intern, and various assignments to review internal policies and
23 practices.

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1 5. This request is made in good faith and not for the purpose of delay.

2 Pursuant to 28 U.S.C. section 1746 Declarant certifies, under penalty of perjury, that
3 the foregoing is true and correct.

4 DATED this 2nd day of July, 2019.

5 ADAM PAUL LAXALT
6 Attorney General

7 By: /s/ Jared M. Frost
8 JARED M. FROST (Bar No. 11132)
9 Senior Deputy Attorney General